S.B. CIVIL WRIT PETITION NO.6653/2007.

Bansidhar and ors.
Vs.
State and ors.

Date of Order : 29/8/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri Satya Narayan Kumawat for the petitioners.

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The petitioners have filed this writ petition with the prayer that respondents be directed not to dispossess the petitioners from the disputed land, not to destroy their land and also not to interfere with their peaceful use and enjoyment of the land in dispute till the civil litigation pending before the competent court is finally decided.

The factual matrix of the case is that plaintiff-respondents filed a revenue suit before the Sub Divisional Officer Kotputli against the petitioners for permanent injunction. The S.D.O. initially issued ex-parte temporary injunction against the petitioners which was lateron confirmed on 18/8/2003. The plaintiff-respondents thereafter moved an application under Order 39 Rule 2A CPC on which the S.D.O. Kotputli issued order dated 19/1/2004 directing attachment of the suit property. Aggrieved thereby, petitioners filed an appeal before the revenue appellate authority which was dismissed

by the said authority. Petitioners then approached to the Board of Revenue by way of revision petition which was allowed vide order dated 5/2/2004. Plaintiff-respondents thereafter filed review petition which was allowed by the Board of Revenue vide order dated 24/5/2004 by recalling of the order dated 5/2/2004 and the revision petition was fixed for hearing. That order was unsuccessfully challenged by the petitioners before the learned Single Bench of this Court by filing writ petition and thereafter the Division Bench also dismissed the appeal with the directions to the parties to contest the revision petition before the Board of Revenue itself. The Board of Revenue after hearing revision petition afresh on merits, allowed the same. On an application moved by the petitioners, the revenue appellate authority however restored the appeal of the petitioners vide order dated 28/5/2007 but declined to pass any interim-order. Petitioners again filed appeal against the said order before the Board of Revenue which vide its order dated 1/6/2007 admitted the revision petition and directed the Nayab Tehsildar Kotputli not to auction the property

pursuant to its earlier order dated 28/5/2007.

The contention of the learned counsel for the petitioners is that the learned revenue appellate authority had appointed Tehsildar Kotputli as a Receiver in the matter pursuant to the order of the Board of Revenue dated 5/2/2004 and petitioners were allowed to cultivate the land on deposit of Rs.5888/- which the petitioners deposited with the Tehsildar Kotputli on 11/2/2004. Petitioners were obviously enjoining the possession of that land and cultivating the same but all off a sudden, the respondents with the help of local administration as also the police forcibly sought to dispossess the petitioners, even though, the main matter was still pending before the Board of Revenue in the revision petition filed by the petitioners. Learned counsel for the petitioners has invited the attention of the court towards certain photographs to show that petitioners have been illegally dispossessed from the disputed land without due process of law and that the respondents were required to have waited for the judgment of the Board of Revenue.

Having heard learned counsel for the parties and perused the material on record, I find that as per petitioners' own admission, they have filed revision petition before the Board of Revenue against restoration of appeal filed by the respondents which was dismissed in default by the revenue appellate authority. Petitioners, as has been submitted by the learned counsel for the petitioners, were put in possession of the disputed land by the Receiver therefore they cannot claim absolute right of possession particularly when now the matter has been decided at the level of the revenue appellate authority.

I do not find any good reason to interfere in the matter and pass the order restoring the possession back to the petitioners.

The writ petition is accordingly dismissed in limine.

(MOHAMMAD RAFIQ), J.

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